

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed October 10, 2006. At the time of the Final Office Action, Claims 1-47 were pending in this Application. Claims 1-26 and 46 were previously withdrawn due to an election/restriction requirement. Claims 27-45 were rejected. Applicants respectfully request reconsideration in light of the remarks below and favorable action in this case.

Rejections under 35 U.S.C. § 102

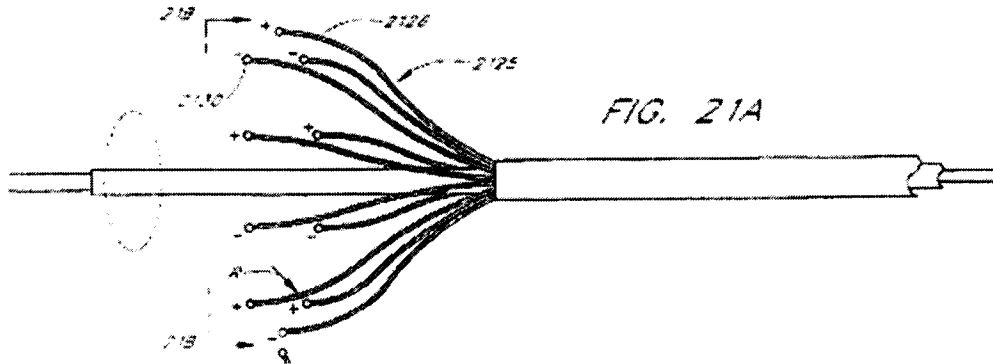
Claims 27, 29, 30 and 32-44 stand rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,997,925 issued to Maguire et al. ("Maguire"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Independent Claim 27 recites an electrosurgical device that includes, among other aspects, a return electrode and "at least one active electrode at the distal portion of the shaft, and having an active electrode surface area, the *active electrode further comprising an arm portion being radially spaced from the return electrode...*". (Emphasis added.)

Independent Claim 45 recites an electrosurgical system that includes, among aspects, an electrosurgical device having a return electrode and having "at least one active electrode ..., the *active electrode further comprising an arm portion being radially spaced from the return electrode ...*". (Emphasis added.)

Examiner cites to Figure 21A of Maquire as anticipating the limitations of Independent Claims 27 and 45, including an active electrode comprising an arm portion being radially spaced from the return electrode.



The office action contends that Figure 21A “clearly illustrates an active electrode radially space [sic] from a return electrode.” Pages 3 and 4. Figure 21A shows a device with multiple spline members 2125 and ablation elements 2130. The ablation elements are depicted to be about a particular circumference; no ablation elements are deployed along the center or longitudinal axis of the device. This interpretation is further supported by the description of Figure 21A which further states:

This embodiment illustrates that more ablation elements may be needed in order to maintain the requisite spacing between the individual elements so that a continuous circumferential lesion may be formed along circumferential regions of tissue with greater radii. Or, alternatively this illustrates that more ablation elements may be needed in order to maintain the requisite spacing between the individual elements so that a continuous circumferential lesion may be formed along circumferential regions of tissue with greater radii.

Col. 39 lines 21-28.

Accordingly, Maquire does not teach active electrodes radially spaced from a return electrode and Applicants reiterate the arguments posed in the previous response that Maquire fails to disclose, teach or suggest an active electrode comprising an arm portion radially spaced from a return electrode.

For at least these reasons Maquire fails to disclose, teach or suggest each and every recited limitation, and therefore cannot anticipate, Independent Claims 27 and 45. Applicants respectfully request reconsideration, withdrawal of the rejections under §102 and full allowance of Independent Claims 27 and 45 and Claims 29, 30 and 32-44 that depend therefrom.

Rejections under 35 U.S.C. §103

The Examiner rejects Claims 28 and 31 under 35 U.S.C. §103(a), as being unpatentable over Maguire. For the reasons discussed above, Applicants submit that Claims 28 and 31 depend from claims that are in condition for allowance, thereby obviating the present rejection. Applicants request reconsideration, withdrawal of the rejections and full allowance of Claims 28 and 31.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-0359 of ArthroCare Corporation in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.391.3961.

Respectfully submitted
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